

NORTH CAROLINA
WAKE COUNTY

BEFORE THE
GRIEVANCE COMMITTEE
OF THE
NORTH CAROLINA STATE BAR
95G0941(II) & 98G0638(II)

IN THE MATTER OF)
HENRY M. PLEASANT,) REPRIMAND
ATTORNEY AT LAW)

On January 13, 1999, the Grievance Committee of the North Carolina State Bar met and considered the grievance filed against you by Hang Nguyen and James McDonald.

Pursuant to section .0113(a) of the Discipline and Disability Rules of the North Carolina State Bar, the Grievance Committee conducted a preliminary hearing. After considering the information available to it, including your response to the letter of notice, the Grievance Committee found probable cause. Probable cause is defined in the rules as "reasonable cause to believe that a member of the North Carolina State Bar is guilty of misconduct justifying disciplinary action."

The rules provide that after a finding of probable cause, the Grievance Committee may determine that the filing of a complaint and a hearing before the Disciplinary Hearing Commission are not required, and the Grievance Committee may issue various levels of discipline depending upon the misconduct, the actual or potential injury caused, and any aggravating or mitigating factors. The Grievance Committee may issue an admonition, a reprimand, or a censure to the respondent attorney.

A reprimand is a written form of discipline more serious than an admonition issued in cases in which an attorney has violated one or more provisions of the Rules of Professional Conduct and has caused harm or potential harm to a client, the administration of justice, the profession, or a member of the public, but the misconduct does not require a censure.

The Grievance Committee was of the opinion that a censure is not required in this case and issues this reprimand to you. As chairman of the Grievance Committee of the North Carolina State Bar, it is now my duty to issue this reprimand, and I am certain that you will understand fully the spirit in which this duty is performed.

In 1995, HN filed a grievance against you with the N.C. State Bar. The complaint was assigned file number 95G 941. On August 28, 1995, you were served with a Substance of Grievance summarizing HN's grievance and a Letter of Notice, requesting you to respond within 15 days. After you did not respond to the Letter of Notice, the State Bar's Director of Investigations, Harry Warren, wrote to you on two occasions in September 1995, reminding you of the matter and requesting you to respond. When you still failed to respond to the Letter of Notice, the Chair of the Grievance Committee issued a subpoena to you, commanding you to

appear and respond to the grievance. Although you appeared in compliance with the subpoena, you never filed a written response to the Letter of Notice as you were required to do. By failing to respond promptly to the State Bar's Letter of Notice regarding HN's grievance, you violated Rule 1.1(b) of the former Rules of Professional Conduct.

In 1998, after receiving a complaint from another individual, the State Bar conducted an audit of your attorney trust account. This audit indicated that one of your employees had embezzled a substantial amount of client funds from the trust account between late 1997 and early 1998. The audit also indicated that, while you were not guilty of any dishonesty, you had failed to conduct quarterly reconciliations of the trust account for years. Your conduct in this regard violated Rule 1.15-2 of the Revised Rules of Professional Conduct and Rule 10.2 of the former Rules of Professional Conduct. Had you conducted regular reconciliations as you were required to do, you would doubtless have detected your employee's dishonesty at an earlier stage. Your failure to abide by the trust account rules placed funds which you held in trust for your clients and the public at risk.

While the Committee concluded that the imposition of a reprimand is sufficient, under the unique circumstances of this case, to remind you of your professional obligations, it wishes to impress upon you that any future violations respecting your trust account may subject you to much more substantial discipline.

You are hereby reprimanded by the North Carolina State Bar due to your professional misconduct. The Grievance Committee trusts that you will heed this reprimand, that it will be remembered by you, that it will be beneficial to you, and that you will never again allow yourself to depart from adherence to the high ethical standards of the legal profession.

In accordance with the policy adopted October 15, 1981 by the Council of the North Carolina State Bar regarding the taxing of the administrative and investigative costs to any attorney issued a reprimand by the Grievance Committee, the costs of this action in the amount of \$50.00 are hereby taxed to you.

Done and ordered, this 26 day of January, 1999.


James K. Dorsett, III
Chair, Grievance Committee